

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ERIC ORTIZ, individually and on behalf §
of all others similarly situated, §
§
Plaintiff, §
§
v. § Civil Action No. 5:20-cv-01205
§
MIDLAND CREDIT MANAGEMENT, §
§
Defendant. §

**NOTICE OF REMOVAL OF ACTION TO FEDERAL COURT BASED
ON FEDERAL QUESTION JURISDICTION UNDER 28 U.S.C. §§ 1331 AND 1441**

Defendant, Midland Credit Management, Inc. ("MCM" or "Defendant"), hereby files this Notice of Removal, pursuant to 28 U.S.C. §§ 1331 and 1441, and removes to the United States District Court for the Western District of Texas the cause of action currently pending in the County Court in and for Bexar County, Texas, styled *Eric Ortiz, individually and on behalf of all others similarly situated v. Midland Credit Management, Inc*, Case No. 2020CV04348 on the following grounds:

1. This Notice of Removal is founded and based upon a federal question pursuant to 28 U.S.C. §§ 1331 and 1441. Plaintiff, Eric Ortiz ("Plaintiff"), originally filed this civil action on or about September 11, 2020, in the County Court at Law # 10 in and for Bexar County, Texas. Plaintiff is seeking monetary damages from the Defendant. As required by 28 U.S.C. § 1446(a), a copy of the process, pleadings, orders and other documents presently contained in the state court file and available for copying are attached to this Notice as Composite Exhibit "A."

A. CONSENT TO REMOVAL

2. MCM is the only named Defendant.

B. TIMELINESS OF REMOVAL

3. MCM was served on September 18, 2020. Accordingly, this Notice of Removal is timely filed within thirty (30) days of the date of service pursuant to 28 U.S.C. § 1446(b).

C. THE VENUE REQUIREMENT IS MET

4. Venue of this removal is proper under 28 U.S.C. § 1441(a) because this Court is the United States District Court for the district and division corresponding to the place where the state-court action is pending.

D. FEDERAL QUESTION AT ISSUE

5. Plaintiff alleges purported claims under the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 - 1692p ("FDCPA") and the Texas Debt Collection Act, Tex. Fin. Code § 392 *et seq.* ("TDCA"). *See* Complaint at ¶¶ 1, 54 and ¶¶ 1, 64.

6. Plaintiff's Complaint is removable to the United States District Court for the Western District of Texas because the Complaint presents a federal question. Specifically, 28 U.S.C. § 1331 provides that "district courts shall have original jurisdiction over all civil actions arising under the Constitution, laws, or treaties of the United States." *See* 28 U.S.C. § 1331. Plaintiff's claims provide the basis for this Court's jurisdiction as he has brought suit under the laws of the United States. Accordingly, MCM is entitled to remove this action in accordance with 28 U.S.C. § 1441(a).

E. NOTICE TO PARTIES AND TO THE CIRCUIT COURT

7. Written notice of the filing of this Notice of Removal is being served on Plaintiff, and a copy of this Notice of Removal is being filed with the Clerk of the Court in the County Court in and for Bexar County, Texas, in compliance with 28 U.S.C. 1446(d).

WHEREFORE, MCM requests that the above-styled action now pending against it in the County Court in and for Bexar County, Texas, be removed to this Court.

Dated: October 12, 2020

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*Attorneys for Defendant
Midland Credit Management, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of October, 2020, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system. I also certify that the foregoing document is being served this day on counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive Notices of Electronic Filing electronically.

/s/ Cory W. Eichhorn
Cory W. Eichhorn